

# U.S. Sentencing Commission Special Post-Booker Coding Project



## Information for All Cases

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Cases Sentenced Subsequent to *U.S. v. Booker*  
(Data Extraction as of May 1, 2006)

Prepared: May 24, 2006



U.S. SENTENCING COMMISSION  
SPECIAL POST-BOOKER CODING PROJECT  
DATA EXTRACTION DATE: MAY 1, 2006

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# NATIONAL COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *U.S. v. Booker* with Data Available to USSC on May 1, 2006

	N	%
<b>TOTAL<sup>1</sup></b>	<b>85,568</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>53,606</b>	<b>62.6</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>255</b>	<b>0.3</b>
Upward Departure from the Guideline Range <sup>2</sup>	186	0.2
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	69	0.1
<b>OTHERWISE ABOVE THE GUIDELINE RANGE</b>	<b>1,113</b>	<b>1.3</b>
Above the Range with <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	623	0.7
All Remaining Cases Above the Guideline Range <sup>5</sup>	490	0.6
<b>GOVERNMENT SPONSORED BELOW RANGE</b>	<b>20,003</b>	<b>23.4</b>
§5K1.1 Substantial Assistance Departure	12,098	14.1
§5K3.1 Early Disposition Program Departure	5,574	6.5
Government-Sponsored Departure <sup>6</sup>	2,331	2.7
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>2,745</b>	<b>3.2</b>
Downward Departure from the Guideline Range <sup>2</sup>	1,874	2.2
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	871	1.0
<b>OTHERWISE BELOW THE GUIDELINE RANGE</b>	<b>7,846</b>	<b>9.2</b>
Below the Range with <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	5,432	6.3
All Remaining Cases Below the Guideline Range <sup>5</sup>	2,414	2.8

<sup>1</sup>This table reflects the 89,221 cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by May 1, 2006. Of this total, there are 3,653 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

<sup>2</sup>All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

<sup>3</sup>All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>4</sup>All cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>5</sup>Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to *Booker*/18 U.S.C. § 3553. This category includes cases which cite departure reasons that are not affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>6</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-*Booker* Coding Project, (data extraction on May 1, 2006; table prepared on May 24, 2006). Summary numbers may not add up to their component parts due to rounding.

# MOST FREQUENTLY APPLIED GUIDELINES: COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on May 1, 2006

	Four Most Frequently Applied Primary Guidelines									
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
	N	%	N	%	N	%	N	%	N	%
<b>TOTAL<sup>1</sup></b>	<b>85,568</b>	<b>100.0</b>	<b>29,517</b>	<b>100.0</b>	<b>13,259</b>	<b>100.0</b>	<b>8,413</b>	<b>100.0</b>	<b>8,880</b>	<b>100.0</b>
<b>WITHIN GUIDELINE RANGE</b>	<b>53,606</b>	<b>62.6</b>	<b>16,049</b>	<b>54.4</b>	<b>7,870</b>	<b>59.4</b>	<b>5,961</b>	<b>70.9</b>	<b>6,306</b>	<b>71.0</b>
<b>DEPARTURE ABOVE GUIDELINE</b>	<b>255</b>	<b>0.3</b>	<b>21</b>	<b>0.1</b>	<b>23</b>	<b>0.2</b>	<b>36</b>	<b>0.4</b>	<b>31</b>	<b>0.3</b>
Upward Departure from the Guideline Range <sup>2</sup>	186	0.2	15	0.1	16	0.1	28	0.3	18	0.2
Upward Departure with Booker/18 USC §3553 <sup>3</sup>	69	0.1	6	0.0	7	0.1	8	0.1	13	0.1
<b>OTHERWISE ABOVE THE RANGE</b>	<b>1,113</b>	<b>1.3</b>	<b>151</b>	<b>0.5</b>	<b>110</b>	<b>0.8</b>	<b>180</b>	<b>2.1</b>	<b>213</b>	<b>2.4</b>
Above the Range with Booker/18 USC §3553 <sup>4</sup>	623	0.7	79	0.3	68	0.5	96	1.1	125	1.4
All Remaining Cases Above the Guideline Range <sup>5</sup>	490	0.6	72	0.2	42	0.3	84	1.0	88	1.0
<b>GOVERNMENT BELOW GUIDELINE</b>	<b>20,003</b>	<b>23.4</b>	<b>9,640</b>	<b>32.7</b>	<b>3,992</b>	<b>30.1</b>	<b>1,002</b>	<b>11.9</b>	<b>1,067</b>	<b>12.0</b>
§5K1.1 Substantial Assistance Departure	12,098	14.1	7,539	25.5	98	0.7	760	9.0	905	10.2
§5K3.1 Early Disposition Program Departure	5,574	6.5	1,289	4.4	3,487	26.3	39	0.5	12	0.1
Government-Sponsored Departure <sup>6</sup>	2,331	2.7	812	2.8	407	3.1	203	2.4	150	1.7
<b>DEPARTURE BELOW GUIDELINE</b>	<b>2,745</b>	<b>3.2</b>	<b>908</b>	<b>3.1</b>	<b>418</b>	<b>3.2</b>	<b>346</b>	<b>4.1</b>	<b>300</b>	<b>3.4</b>
Downward Departure from the Guideline Range <sup>2</sup>	1,874	2.2	615	2.1	320	2.4	222	2.6	196	2.2
Downward Departure with Booker/18 USC §3553 <sup>3</sup>	871	1.0	293	1.0	98	0.7	124	1.5	104	1.2
<b>OTHERWISE BELOW THE RANGE</b>	<b>7,846</b>	<b>9.2</b>	<b>2,748</b>	<b>9.3</b>	<b>846</b>	<b>6.4</b>	<b>888</b>	<b>10.6</b>	<b>963</b>	<b>10.8</b>
Below the Range with Booker/18 USC §3553 <sup>4</sup>	5,432	6.3	1,975	6.7	556	4.2	638	7.6	610	6.9
All Remaining Cases Below the Guideline Range <sup>5</sup>	2,414	2.8	773	2.6	290	2.2	250	3.0	353	4.0

<sup>1</sup>This table reflects the 89,221 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by May 1, 2006. Of this total, there are 3,653 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

<sup>2</sup>All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

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<sup>4</sup>All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>5</sup>Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>6</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, (data extraction on May 1, 2006; table prepared on May 24, 2006). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Summary numbers may not add up to their component parts due to rounding.

**OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	200	0.2	213	0.2	2D1.7	15	0.0	17	0.0
2A1.2	47	0.1	53	0.1	2D1.8	77	0.1	121	0.1
2A1.3	26	0.0	26	0.0	2D1.9	0	0.0	0	0.0
2A1.4	42	0.1	46	0.1	2D1.10	28	0.0	28	0.0
2A1.5	22	0.0	46	0.1	2D1.11	205	0.2	234	0.3
2A2.1	65	0.1	97	0.1	2D1.12	50	0.1	65	0.1
2A2.2	442	0.5	503	0.6	2D1.13	1	0.0	2	0.0
2A2.3	49	0.1	54	0.1	2D2.1	487	0.6	599	0.7
2A2.4	179	0.2	205	0.2	2D2.2	63	0.1	76	0.1
2A3.1	175	0.2	184	0.2	2D2.3	2	0.0	2	0.0
2A3.2	163	0.2	188	0.2	2D3.1	4	0.0	4	0.0
2A3.3	8	0.0	8	0.0	2D3.2	0	0.0	0	0.0
2A3.4	40	0.0	58	0.1	2D3.3	0	0.0	0	0.0
2A4.1	78	0.1	102	0.1	2D3.4	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2D3.5	0	0.0	0	0.0
2A5.1	1	0.0	1	0.0	2E1.1	38	0.0	127	0.1
2A5.2	22	0.0	24	0.0	2E1.2	22	0.0	100	0.1
2A5.3	0	0.0	0	0.0	2E1.3	1	0.0	33	0.0
2A6.1	204	0.2	213	0.2	2E1.4	14	0.0	21	0.0
2A6.2	7	0.0	15	0.0	2E1.5	0	0.0	0	0.0
2B1.1	9,070	11.0	9,893	11.1	2E2.1	37	0.0	46	0.1
2B1.2	0	0.0	0	0.0	2E3.1	134	0.2	162	0.2
2B1.3	8	0.0	8	0.0	2E3.2	0	0.0	0	0.0
2B1.4	13	0.0	13	0.0	2E3.3	0	0.0	0	0.0
2B1.5	17	0.0	18	0.0	2E4.1	34	0.0	44	0.0
2B2.1	84	0.1	99	0.1	2E5.1	13	0.0	17	0.0
2B2.2	0	0.0	0	0.0	2E5.2	0	0.0	0	0.0
2B2.3	6	0.0	7	0.0	2E5.3	4	0.0	12	0.0
2B3.1	2,273	2.8	2,432	2.7	2E5.4	0	0.0	0	0.0
2B3.2	61	0.1	92	0.1	2E5.5	0	0.0	0	0.0
2B3.3	16	0.0	23	0.0	2E5.6	0	0.0	0	0.0
2B4.1	67	0.1	71	0.1	2F1.1	1,440	1.8	1,526	1.7
2B5.1	719	0.9	766	0.9	2F1.2	9	0.0	10	0.0
2B5.2	0	0.0	0	0.0	2G1.1	80	0.1	133	0.1
2B5.3	192	0.2	204	0.2	2G1.2	1	0.0	1	0.0
2B5.4	0	0.0	0	0.0	2G1.3	106	0.1	118	0.1
2B6.1	17	0.0	19	0.0	2G2.1	119	0.1	139	0.2
2C1.1	266	0.3	299	0.3	2G2.2	713	0.9	739	0.8
2C1.2	33	0.0	33	0.0	2G2.3	0	0.0	0	0.0
2C1.3	15	0.0	15	0.0	2G2.4	486	0.6	534	0.6
2C1.4	2	0.0	2	0.0	2G2.5	1	0.0	1	0.0
2C1.5	0	0.0	0	0.0	2G3.1	16	0.0	22	0.0
2C1.6	1	0.0	1	0.0	2G3.2	0	0.0	0	0.0
2C1.7	40	0.0	49	0.1	2H1.1	54	0.1	59	0.1
2C1.8	6	0.0	7	0.0	2H1.2	0	0.0	0	0.0
2D1.1	30,049	36.6	31,489	35.3	2H1.3	0	0.0	0	0.0
2D1.2	415	0.5	433	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	24	0.0	26	0.0
2D1.5	24	0.0	28	0.0	2H3.1	13	0.0	16	0.0
2D1.6	44	0.1	220	0.2	2H3.2	3	0.0	3	0.0

(continued)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H3.3	15	0.0	20	0.0	2M4.1	0	0.0	0	0.0
2H4.1	10	0.0	10	0.0	2M5.1	13	0.0	17	0.0
2H4.2	0	0.0	0	0.0	2M5.2	31	0.0	34	0.0
2J1.1	0	0.0	30	0.0	2M5.3	7	0.0	10	0.0
2J1.2	160	0.2	218	0.2	2M6.1	15	0.0	15	0.0
2J1.3	83	0.1	121	0.1	2M6.2	1	0.0	1	0.0
2J1.4	21	0.0	39	0.0	2N1.1	3	0.0	3	0.0
2J1.5	2	0.0	2	0.0	2N1.2	2	0.0	2	0.0
2J1.6	75	0.1	98	0.1	2N1.3	0	0.0	0	0.0
2J1.7	177	0.2	189	0.2	2N2.1	38	0.0	72	0.1
2J1.8	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2J1.9	0	0.0	0	0.0	2P1.1	283	0.3	310	0.3
2K1.1	9	0.0	10	0.0	2P1.2	107	0.1	137	0.2
2K1.2	0	0.0	0	0.0	2P1.3	16	0.0	16	0.0
2K1.3	54	0.1	57	0.1	2P1.4	0	0.0	0	0.0
2K1.4	76	0.1	100	0.1	2Q1.1	0	0.0	0	0.0
2K1.5	19	0.0	20	0.0	2Q1.2	65	0.1	67	0.1
2K1.6	1	0.0	1	0.0	2Q1.3	51	0.1	51	0.1
2K1.7	0	0.0	0	0.0	2Q1.4	0	0.0	0	0.0
2K2.1	8,484	10.3	8,987	10.1	2Q1.5	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q2.1	136	0.2	141	0.2
2K2.4	1	0.0	4	0.0	2Q2.2	0	0.0	0	0.0
2K2.5	18	0.0	20	0.0	2R1.1	19	0.0	24	0.0
2K2.6	5	0.0	9	0.0	2S1.1	1,231	1.5	1,348	1.5
2K3.1	0	0.0	0	0.0	2S1.2	33	0.0	39	0.0
2L1.1	3,994	4.9	4,096	4.6	2S1.3	341	0.4	376	0.4
2L1.2	13,398	16.3	13,566	15.2	2S1.4	0	0.0	0	0.0
2L1.3	0	0.0	0	0.0	2T1.1	638	0.8	775	0.9
2L2.1	486	0.6	519	0.6	2T1.2	0	0.0	0	0.0
2L2.2	1,310	1.6	1,386	1.6	2T1.3	2	0.0	2	0.0
2L2.3	0	0.0	0	0.0	2T1.4	156	0.2	170	0.2
2L2.4	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2L2.5	0	0.0	0	0.0	2T1.6	19	0.0	21	0.0
2M1.1	0	0.0	1	0.0	2T1.7	0	0.0	0	0.0
2M2.1	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.9	30	0.0	43	0.0
2M2.3	0	0.0	0	0.0	2T2.1	1	0.0	2	0.0
2M2.4	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T3.1	47	0.1	54	0.1
2M3.2	1	0.0	1	0.0	2T3.2	0	0.0	0	0.0
2M3.3	1	0.0	2	0.0	2T4.1	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2X1.1	196	0.2	1,670	1.9
2M3.5	0	0.0	0	0.0	2X2.1	0	0.0	58	0.1
2M3.6	0	0.0	0	0.0	2X3.1	154	0.2	182	0.2
2M3.7	0	0.0	0	0.0	2X4.1	585	0.7	597	0.7
2M3.8	0	0.0	0	0.0	2X5.1	0	0.0	57	0.1
2M3.9	0	0.0	0	0.0					
					Total number of guidelines applied:				
					89,098				
					Number of cases with at least one guideline applied:				
					82,124				

<sup>1</sup>Of the 89,221 cases, 7,097 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

**GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>TOTAL</b>	<b>89,221</b>	<b>100.0</b>			
<b>D.C. CIRCUIT</b>	<b>623</b>	<b>0.7</b>	<b>FIFTH CIRCUIT</b>	<b>19,190</b>	<b>21.5</b>
District of Columbia	623	0.7	Louisiana		
			Eastern	465	0.5
			Middle	227	0.3
			Western	539	0.6
<b>FIRST CIRCUIT</b>	<b>2,039</b>	<b>2.3</b>	Mississippi		
Maine	287	0.3	Northern	234	0.3
Massachusetts	613	0.7	Southern	400	0.4
New Hampshire	244	0.3	Texas		
Puerto Rico	724	0.8	Eastern	991	1.1
Rhode Island	171	0.2	Northern	1,255	1.4
			Southern	8,160	9.1
<b>SECOND CIRCUIT</b>	<b>5,800</b>	<b>6.5</b>	Western	6,919	7.8
Connecticut	497	0.6			
New York			<b>SIXTH CIRCUIT</b>	<b>6,667</b>	<b>7.5</b>
Eastern	1,493	1.7	Kentucky		
Northern	538	0.6	Eastern	661	0.7
Southern	2,232	2.5	Western	493	0.6
Western	771	0.9	Michigan		
Vermont	269	0.3	Eastern	938	1.1
			Western	528	0.6
<b>THIRD CIRCUIT</b>	<b>3,995</b>	<b>4.5</b>	Ohio		
Delaware	195	0.2	Northern	1,317	1.5
New Jersey	1,182	1.3	Southern	790	0.9
Pennsylvania			Tennessee		
Eastern	1,194	1.3	Eastern	771	0.9
Middle	721	0.8	Middle	414	0.5
Western	546	0.6	Western	755	0.8
Virgin Islands	157	0.2			
			<b>SEVENTH CIRCUIT</b>	<b>3,796</b>	<b>4.3</b>
<b>FOURTH CIRCUIT</b>	<b>8,107</b>	<b>9.1</b>	Illinois		
Maryland	897	1.0	Central	443	0.5
North Carolina			Northern	1,335	1.5
Eastern	830	0.9	Southern	399	0.4
Middle	563	0.6	Indiana		
Western	814	0.9	Northern	529	0.6
South Carolina	1,276	1.4	Southern	370	0.4
Virginia			Wisconsin		
Eastern	2,146	2.4	Eastern	469	0.5
Western	763	0.9	Western	251	0.3
West Virginia					
Northern	422	0.5			
Southern	396	0.4			



(continued)

<b>CIRCUIT</b>			<b>CIRCUIT</b>		
District	Number	Percent	District	Number	Percent
<b>EIGHTH CIRCUIT</b>	<b>6,308</b>	<b>7.1</b>	<b>TENTH CIRCUIT</b>	<b>7,232</b>	<b>8.1</b>
Arkansas			Colorado	853	1.0
Eastern	367	0.4	Kansas	806	0.9
Western	252	0.3	New Mexico	3,302	3.7
Iowa			Oklahoma		
Northern	453	0.5	Eastern	111	0.1
Southern	451	0.5	Northern	253	0.3
Minnesota	707	0.8	Western	458	0.5
Missouri			Utah	1,141	1.3
Eastern	1,205	1.4	Wyoming	308	0.3
Western	1,044	1.2			
Nebraska	999	1.1	<b>ELEVENTH CIRCUIT</b>	<b>8,564</b>	<b>9.6</b>
North Dakota	295	0.3	Alabama		
South Dakota	535	0.6	Middle	277	0.3
			Northern	600	0.7
<b>NINTH CIRCUIT</b>	<b>16,900</b>	<b>18.9</b>	Southern	404	0.5
Alaska	250	0.3	Florida		
Arizona	5,365	6.0	Middle	2,130	2.4
California			Northern	439	0.5
Central	2,045	2.3	Southern	2,742	3.1
Eastern	1,148	1.3	Georgia		
Northern	835	0.9	Middle	561	0.6
Southern	2,974	3.3	Northern	905	1.0
Guam	135	0.2	Southern	506	0.6
Hawaii	600	0.7			
Idaho	308	0.3			
Montana	485	0.5			
Nevada	547	0.6			
Northern Mariana Islands	31	0.0			
Oregon	684	0.8			
Washington					
Eastern	476	0.5			
Western	1,017	1.1			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted May 1, 2006; table prepared May 24, 2006). Summary numbers may not add up to their component parts due to rounding.

## Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>  
(Post-Booker data extracted May 1, 2006)

### NATIONAL

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	64.0%	65.0%	69.4%	72.2%	62.6%
Upward Departures	0.6%	0.8%	0.8%	0.8%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.3% <sup>3</sup>
Substantial Assistance Departures	17.1%	17.4%	15.9%	15.5%	14.1%
Other Gov't Sponsored Departures	—	—	6.3% <sup>4</sup>	6.4%	9.2% <sup>4</sup>
Other Downward Departures	18.3% <sup>5</sup>	16.8% <sup>5</sup>	7.5%	5.2%	3.2% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.2% <sup>3</sup>

### DC CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	74.6%	59.9%	64.6%	59.2%	53.1%
Upward Departures	0.4%	0.5%	0.2%	1.0%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	2.5% <sup>3</sup>
Substantial Assistance Departures	13.8%	31.1%	26.4%	31.3%	22.4%
Other Gov't Sponsored Departures	—	—	4.4% <sup>4</sup>	3.9%	9.5% <sup>4</sup>
Other Downward Departures	11.2% <sup>5</sup>	8.5% <sup>5</sup>	4.4%	4.7%	2.8% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.6% <sup>3</sup>

### FIRST CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.3%	75.7%	77.3%	79.6%	66.4%
Upward Departures	0.4%	0.6%	0.7%	0.9%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	2.1% <sup>3</sup>
Substantial Assistance Departures	14.6%	14.4%	13.5%	13.8%	11.8%
Other Gov't Sponsored Departures	—	—	0.7% <sup>4</sup>	0.5%	2.5% <sup>4</sup>
Other Downward Departures	11.7% <sup>5</sup>	9.3% <sup>5</sup>	7.8%	5.2%	4.0% <sup>2</sup>
Otherwise Below Range	—	—	—	—	13.0% <sup>3</sup>

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## Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### SECOND CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	57.5%	61.3%	63.2%	63.8%	51.7%
Upward Departures	0.4%	0.6%	0.5%	0.9%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.9% <sup>3</sup>
Substantial Assistance Departures	21.7%	19.0%	17.5%	19.2%	21.1%
Other Gov't Sponsored Departures	—	—	2.8% <sup>4</sup>	2.5%	2.6% <sup>4</sup>
Other Downward Departures	20.4% <sup>5</sup>	19.1% <sup>5</sup>	16.0%	13.6%	6.6% <sup>2</sup>
Otherwise Below Range	—	—	—	—	17.0% <sup>3</sup>

### THIRD CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	60.2%	58.9%	62.3%	62.6%	52.5%
Upward Departures	0.5%	0.9%	0.9%	0.6%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.2% <sup>3</sup>
Substantial Assistance Departures	30.6%	32.3%	28.8%	30.3%	26.8%
Other Gov't Sponsored Departures	—	—	0.6% <sup>4</sup>	0.8%	1.8% <sup>4</sup>
Other Downward Departures	8.8% <sup>5</sup>	7.9% <sup>5</sup>	7.4%	5.8%	4.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	13.4% <sup>3</sup>

### FOURTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.7%	76.6%	77.0%	79.0%	68.1%
Upward Departures	0.9%	0.7%	0.6%	1.0%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.3% <sup>3</sup>
Substantial Assistance Departures	20.2%	18.6%	18.3%	16.7%	17.2%
Other Gov't Sponsored Departures	—	—	0.3% <sup>4</sup>	0.3%	1.3% <sup>4</sup>
Other Downward Departures	5.2% <sup>5</sup>	4.2% <sup>5</sup>	3.8%	3.0%	2.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	9.4% <sup>3</sup>

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## Guideline Application, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### FIFTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	69.1%	71.0%	73.7%	80.2%	73.4%
Upward Departures	0.5%	0.9%	0.9%	0.8%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	12.3%	13.4%	12.5%	10.3%	7.6%
Other Gov't Sponsored Departures	—	—	5.4% <sup>4</sup>	5.2%	9.3% <sup>4</sup>
Other Downward Departures	18.1% <sup>5</sup>	14.7% <sup>5</sup>	7.5%	3.5%	2.3% <sup>2</sup>
Otherwise Below Range	—	—	—	—	5.6% <sup>3</sup>

### SIXTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.1%	66.9%	69.1%	69.7%	58.4%
Upward Departures	0.5%	0.8%	0.4%	0.5%	0.2% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.3% <sup>3</sup>
Substantial Assistance Departures	27.2%	26.0%	24.6%	24.3%	24.4%
Other Gov't Sponsored Departures	—	—	0.5% <sup>4</sup>	0.4%	1.8% <sup>4</sup>
Other Downward Departures	7.3% <sup>5</sup>	6.3% <sup>5</sup>	5.3%	5.1%	3.0% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.0% <sup>3</sup>

### SEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	71.0%	69.3%	72.5%	75.4%	65.2%
Upward Departures	1.0%	0.8%	1.0%	1.3%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.1% <sup>3</sup>
Substantial Assistance Departures	21.2%	21.8%	21.2%	19.0%	16.2%
Other Gov't Sponsored Departures	—	—	0.8% <sup>4</sup>	0.8%	2.3% <sup>4</sup>
Other Downward Departures	6.9% <sup>5</sup>	8.1% <sup>5</sup>	4.5%	3.6%	3.4% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.6% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### EIGHTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	66.8%	69.3%	72.2%	77.0%	65.0%
Upward Departures	0.7%	1.2%	1.1%	0.9%	0.3% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.5% <sup>3</sup>
Substantial Assistance Departures	22.0%	18.9%	17.6%	15.3%	14.4%
Other Gov't Sponsored Departures	—	—	2.0% <sup>4</sup>	2.1%	4.0% <sup>4</sup>
Other Downward Departures	10.5% <sup>5</sup>	10.7% <sup>5</sup>	7.1%	4.7%	3.4% <sup>2</sup>
Otherwise Below Range	—	—	—	—	11.4% <sup>3</sup>

### NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	50.1%	48.8%	59.6%	61.8%	48.4%
Upward Departures	0.4%	0.7%	1.1%	0.8%	0.5% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.1% <sup>3</sup>
Substantial Assistance Departures	10.7%	11.8%	10.2%	10.6%	10.3%
Other Gov't Sponsored Departures	—	—	19.2% <sup>4</sup>	20.4%	27.7% <sup>4</sup>
Other Downward Departures	38.7% <sup>5</sup>	38.7% <sup>5</sup>	9.9%	6.5%	3.5% <sup>2</sup>
Otherwise Below Range	—	—	—	—	8.5% <sup>3</sup>

### TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.0%	66.6%	73.1%	73.9%	65.5%
Upward Departures	0.7%	0.6%	0.6%	0.7%	0.1% <sup>2</sup>
Otherwise Above Range	—	—	—	—	0.9% <sup>3</sup>
Substantial Assistance Departures	11.0%	11.0%	9.4%	10.3%	9.2%
Other Gov't Sponsored Departures	—	—	11.4% <sup>4</sup>	10.7%	14.1% <sup>4</sup>
Other Downward Departures	23.3% <sup>5</sup>	21.9% <sup>5</sup>	5.5%	4.5%	3.1% <sup>2</sup>
Otherwise Below Range	—	—	—	—	7.1% <sup>3</sup>

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## Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06<sup>1</sup>

### ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	72.1%	70.2%	74.5%	74.7%	69.2%
Upward Departures	0.6%	0.7%	0.8%	0.8%	0.4% <sup>2</sup>
Otherwise Above Range	—	—	—	—	1.4% <sup>3</sup>
Substantial Assistance Departures	19.9%	22.4%	19.9%	21.0%	17.6%
Other Gov't Sponsored Departures	—	—	0.3% <sup>4</sup>	0.2%	1.1% <sup>4</sup>
Other Downward Departures	7.5% <sup>5</sup>	6.7% <sup>5</sup>	4.5%	3.3%	2.6% <sup>2</sup>
Otherwise Below Range	—	—	—	—	7.7% <sup>3</sup>

<sup>1</sup>In 2003, the Commission augmented its data coding procedures to determine the proportion of non-substantial assistance downward departures that were sponsored by the government. Data prior to 2003 does not distinguish non-substantial assistance government initiated downward departures from other downward departures. In this table, data from FY2001 and 2002 on "Other Downward Departures" combines both government sponsored and non-government sponsored downward departures. For FY2003 and FY2004, the "Other Downward Departures" data distinguishes departures that were sponsored by the government from those not sponsored by the government. For example, using the national data, 6.3% of downward departures were government sponsored and 7.5% were other downward departures; the combination of these values (13.8%) is directly comparable to the data for "Other Downward Departures" from the preceding years. For FY2004, this table reflects only cases sentenced prior to the *Blakely v Washington* decision on June 24, 2004. For FY2005-06, this table reflects cases sentenced subsequent to the *U.S. v Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by May 1, 2006. In these cases, a further distinction is made among below guideline range sentences. The data report three categories of below range sentences: those sponsored by the government; those not sponsored by the government and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*; and those mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range. Cases citing both reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and mentioning *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors are included in the "Other Downward Departures" category.

<sup>2</sup>Includes cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and all cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

<sup>3</sup>Includes cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range and all cases with imposed sentences outside of the guideline range that do not fall into the previous category. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

<sup>4</sup>Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant. Note that §5K3.1 (Early Disposition Program) cases are included in this category.

<sup>5</sup>Includes cases in which the below range sentence was sponsored by the government and those not sponsored by the government. Prior to FY2003, the Commission did not code this distinction.

SOURCE: U.S. Sentencing Commission *Sourcebook of Federal Sentencing*, FY2001 through FY2003, Table 26; U.S. Sentencing Commission 2004 Fiscal Year Data File, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project, (data extracted May 1, 2006; table prepared May 24, 2006). Percents may not sum to 100 percent due to rounding.

**Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines**  
FY 2000-2003, Pre-Blakely FY 2004, and Post-Booker FY 2005-2006 (data extracted May 1, 2006)

	FY 2000		FY 2001		FY 2002		FY 2003		Pre-Blakely FY 2004		Post-Booker FY2005-06	
	N	%	N	%	N	%	N	%	N	%	N	%
<b>Drug Trafficking §2D1.1<sup>1</sup></b>	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	16,955	100.0	29,429	100.0
Prison only <sup>2</sup>	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	16,081	94.9	27,863	94.7
Prison plus confinement conditions <sup>3</sup>	430	2.0	469	2.1	515	2.1	402	1.7	337	2.0	626	2.1
Probation plus confinement conditions <sup>4</sup>	379	1.7	488	2.2	465	1.9	469	2.0	227	1.3	407	1.4
Probation only <sup>5</sup>	484	2.2	508	2.2	626	2.6	507	2.1	310	1.8	533	1.8
<b>Immigration Unlawful Entry §2L1.2<sup>1</sup></b>	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	7,058	100.0	13,307	100.0
Prison only <sup>2</sup>	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	7,032	99.6	13,218	99.3
Prison plus confinement conditions <sup>3</sup>	10	0.2	14	0.2	7	0.1	11	0.1	10	0.1	24	0.2
Probation plus confinement conditions <sup>4</sup>	1	0.0	1	0.0	0	0.0	2	0.0	0	0.0	2	0.0
Probation only <sup>5</sup>	39	0.6	30	0.5	34	0.5	22	0.2	16	0.2	63	0.5
<b>Firearms §2K2.1<sup>1</sup></b>	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	4,782	100.0	8,191	100.0
Prison only <sup>2</sup>	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	4,292	89.8	7,363	89.9
Prison plus confinement conditions <sup>3</sup>	104	3.5	141	3.9	158	3.8	174	3.2	128	2.7	248	3.0
Probation plus confinement conditions <sup>4</sup>	147	4.9	155	4.3	139	3.3	224	4.1	160	3.4	294	3.6
Probation only <sup>5</sup>	142	4.7	156	4.3	196	4.7	248	4.6	202	4.2	286	3.5
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>1</sup></b>	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	6,909	100.0	10,177	100.0
Prison only <sup>2</sup>	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	3,574	51.7	5,423	53.3
Prison plus confinement conditions <sup>3</sup>	1,077	11.9	1,053	12.0	959	10.4	840	8.7	629	9.1	923	9.1
Probation plus confinement conditions <sup>4</sup>	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	997	14.4	1,338	13.1
Probation only <sup>5</sup>	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	1,709	24.7	2,493	24.5

<sup>1</sup>Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

<sup>2</sup>Prison only cases receive straight prison time.

<sup>3</sup>Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>4</sup>Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>5</sup>Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 2000-2003 Fiscal Year Datafiles, USSCFY00-USSCFY03; 2004 Fiscal Year Datafile, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on May 1, 2006; table prepared May 24, 2006). Numbers may not sum to 100 percent due to rounding.

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2000 and Fiscal Year 2001

	Fiscal Year 2000				Fiscal Year 2001			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>50</b>	<b>30</b>		<b>51,342</b>	<b>50</b>	<b>30</b>		<b>51,809</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>72</b>	<b>50</b>	<b>60</b>	<b>21,715</b>	<b>70</b>	<b>48</b>	<b>60</b>	<b>22,608</b>
Prison only <sup>5</sup>	74	57	63	20,422	72	51	60	21,143
Prison plus confinement conditions <sup>6</sup>	21	10	21	430	29	10	18	469
Probation plus confinement conditions <sup>7</sup>	6	6	12	379	6	6	12	488
Probation only <sup>8</sup>	0	0	—	484	0	0	—	508
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>36</b>	<b>33</b>	<b>46</b>	<b>6,341</b>	<b>35</b>	<b>30</b>	<b>46</b>	<b>5,946</b>
Prison only <sup>5</sup>	36	33	33	6,291	35	30	46	5,901
Prison plus confinement conditions <sup>6</sup>	21	10	10	10	20	10	12	14
Probation plus confinement conditions <sup>7</sup>	—	—	—	1	—	—	—	1
Probation only <sup>8</sup>	0	0	—	39	0	0	—	30
<b>Firearms §2K2.1<sup>4</sup></b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>2,997</b>	<b>52</b>	<b>37</b>	<b>37</b>	<b>3,629</b>
Prison only <sup>5</sup>	57	37	41	2,604	56	40	41	3,177
Prison plus confinement conditions <sup>6</sup>	23	10	12	104	22	10	15	141
Probation plus confinement conditions <sup>7</sup>	7	6	12	147	6	6	12	155
Probation only <sup>8</sup>	0	0	—	142	0	0	—	156
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>9,015</b>	<b>15</b>	<b>10</b>	<b>12</b>	<b>8,768</b>
Prison only <sup>5</sup>	19	15	15	4,253	20	15	15	4,339
Prison plus confinement conditions <sup>6</sup>	9	8	8	1,077	9	8	8	1,053
Probation plus confinement conditions <sup>7</sup>	5	6	6	1,540	5	6	6	1,481
Probation only <sup>8</sup>	0	0	—	2,145	0	0	—	1,895

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.



## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Fiscal Year 2002 and Fiscal Year 2003

	Fiscal Year 2002				Fiscal Year 2003			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>51</b>	<b>30</b>		<b>55,856</b>	<b>52</b>	<b>30</b>		<b>60,786</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>71</b>	<b>51</b>	<b>60</b>	<b>24,013</b>	<b>77</b>	<b>57</b>	<b>63</b>	<b>23,833</b>
Prison only <sup>5</sup>	74	57	57	22,407	79	60	70	22,455
Prison plus confinement conditions <sup>6</sup>	22	10	10	515	20	10	15	402
Probation plus confinement conditions <sup>7</sup>	6	6	6	465	6	6	12	469
Probation only <sup>8</sup>	0	0	—	626	0	0	—	507
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>30</b>	<b>27</b>	<b>30</b>	<b>6,993</b>	<b>28</b>	<b>24</b>	<b>27</b>	<b>9,167</b>
Prison only <sup>5</sup>	30	27	30	6,952	28	24	27	9,132
Prison plus confinement conditions <sup>6</sup>	20	10	10	7	22	10	10	11
Probation plus confinement conditions <sup>7</sup>	—	—	—	0	—	—	—	2
Probation only <sup>8</sup>	0	0	—	34	0	0	—	22
<b>Firearms §2K2.1<sup>4</sup></b>	<b>53</b>	<b>37</b>	<b>37</b>	<b>4,173</b>	<b>56</b>	<b>37</b>	<b>37</b>	<b>5,425</b>
Prison only <sup>5</sup>	57	37	37	3,680	59	41	41	4,779
Prison plus confinement conditions <sup>6</sup>	18	10	12	158	21	10	12	174
Probation plus confinement conditions <sup>7</sup>	6	6	12	139	6	6	12	224
Probation only <sup>8</sup>	0	0	—	196	0	0	—	248
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>16</b>	<b>10</b>	<b>12</b>	<b>9,243</b>	<b>16</b>	<b>12</b>	<b>12</b>	<b>9,606</b>
Prison only <sup>5</sup>	20	15	15	4,531	21	16	18	4,803
Prison plus confinement conditions <sup>6</sup>	9	10	10	959	9	10	10	840
Probation plus confinement conditions <sup>7</sup>	6	6	6	1,421	6	6	6	1,463
Probation only <sup>8</sup>	0	0	—	2,332	0	0	—	2,500

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2002 and 2003 Fiscal Year Datafiles, USSCFY02 and USSCFY03.

## Average and Median Sentence Imposed<sup>1</sup> for the Most Frequently Applied Guidelines

Pre-Blakely FY 2004 and Post-Booker FY 2005-2006 (data extracted May 1, 2006)

	Pre-Blakely FY 2004				Post-Booker FY2005-06			
	Average Months	Median Months	GL Median <sup>2</sup>	N	Average Months	Median Months	GL Median <sup>2</sup>	N
<b>All Cases (one guideline computation)<sup>3</sup></b>	<b>56</b>	<b>33</b>		<b>44,895</b>	<b>55</b>	<b>33</b>		<b>78,952</b>
<b>Drug Trafficking §2D1.1<sup>4</sup></b>	<b>83</b>	<b>60</b>	<b>70</b>	<b>16,955</b>	<b>83</b>	<b>60</b>	<b>70</b>	<b>29,429</b>
Prison only <sup>5</sup>	86	60	70	16,081	86	63	78	27,863
Prison plus confinement conditions <sup>6</sup>	22	10	12	337	19	10	21	626
Probation plus confinement conditions <sup>7</sup>	6	6	12	227	6	6	12	407
Probation only <sup>8</sup>	0	0	—	310	0	0	—	533
<b>Immigration Unlawful Entry §2L1.2<sup>4</sup></b>	<b>29</b>	<b>24</b>	<b>24</b>	<b>7,058</b>	<b>27</b>	<b>24</b>	<b>24</b>	<b>13,307</b>
Prison only <sup>5</sup>	29	24	24	7,032	27	24	24	13,218
Prison plus confinement conditions <sup>6</sup>	40	34	29	10	17	10	15	24
Probation plus confinement conditions <sup>7</sup>	—	—	—	0	—	—	—	2
Probation only <sup>8</sup>	0	0	—	16	0	0	—	63
<b>Firearms §2K2.1<sup>4</sup></b>	<b>59</b>	<b>40</b>	<b>41</b>	<b>4,782</b>	<b>58</b>	<b>37</b>	<b>37</b>	<b>8,191</b>
Prison only <sup>5</sup>	63	42	46	4,292	61	41	41	7,363
Prison plus confinement conditions <sup>6</sup>	21	10	10	128	23	10	12	248
Probation plus confinement conditions <sup>7</sup>	6	6	10	160	7	6	12	294
Probation only <sup>8</sup>	0	0	—	202	0	0	—	286
<b>Theft/Fraud §2B1.1 or §2F1.1<sup>4</sup></b>	<b>19</b>	<b>12</b>	<b>12</b>	<b>6,909</b>	<b>20</b>	<b>12</b>	<b>15</b>	<b>10,177</b>
Prison only <sup>5</sup>	25	18	18	3,574	26	18	21	5,423
Prison plus confinement conditions <sup>6</sup>	9	10	10	629	10	10	10	923
Probation plus confinement conditions <sup>7</sup>	6	6	6	997	6	6	6	1,338
Probation only <sup>8</sup>	0	0	—	1,709	0	0	—	2,493

<sup>1</sup>Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

<sup>2</sup>For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

<sup>3</sup>All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

<sup>4</sup>Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

<sup>5</sup>Prison only sentence categories report straight prison time.

<sup>6</sup>Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

<sup>7</sup>Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

<sup>8</sup>Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2004 Fiscal Year Datafile, USSCFY04 Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on May 1, 2006; table prepared May 24, 2006).

**POST-BOOKER DEPARTURE/VARIANCE RATE BY CIRCUIT AND DISTRICT<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

<b>CIRCUIT</b> District	<b>TOTAL</b>	<b>SENTENCED WITHIN GUIDELINE RANGE</b>		<b>GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE</b>		<b>DEPARTURES BELOW THE GUIDELINE RANGE</b>		<b>OTHERWISE BELOW THE GUIDELINE RANGE</b>		<b>DEPARTURES ABOVE THE GUIDELINE RANGE</b>		<b>OTHERWISE ABOVE THE GUIDELINE RANGE</b>	
			%		%		%		%		%		%
<b>TOTAL</b>	<b>85,568</b>	<b>53,606</b>	<b>62.6</b>	<b>20,003</b>	<b>23.4</b>	<b>2,745</b>	<b>3.2</b>	<b>7,846</b>	<b>9.2</b>	<b>255</b>	<b>0.3</b>	<b>1,113</b>	<b>1.3</b>
<b>D.C. CIRCUIT</b>	<b>612</b>	<b>325</b>	<b>53.1</b>	<b>195</b>	<b>31.9</b>	<b>17</b>	<b>2.8</b>	<b>59</b>	<b>9.6</b>	<b>1</b>	<b>0.2</b>	<b>15</b>	<b>2.5</b>
District of Columbia	<b>612</b>	325	53.1	195	31.9	17	2.8	59	9.6	1	0.2	15	2.5
<b>FIRST CIRCUIT</b>	<b>1,990</b>	<b>1,322</b>	<b>66.4</b>	<b>284</b>	<b>14.3</b>	<b>79</b>	<b>4.0</b>	<b>259</b>	<b>13.0</b>	<b>5</b>	<b>0.3</b>	<b>41</b>	<b>2.1</b>
Maine	<b>284</b>	207	72.9	56	19.7	7	2.5	12	4.2	0	0.0	2	0.7
Massachusetts	<b>587</b>	320	54.5	78	13.3	48	8.2	136	23.2	1	0.2	4	0.7
New Hampshire	<b>244</b>	135	55.3	81	33.2	8	3.3	11	4.5	1	0.4	8	3.3
Puerto Rico	<b>711</b>	550	77.4	60	8.4	12	1.7	64	9.0	2	0.3	23	3.2
Rhode Island	<b>164</b>	110	67.1	9	5.5	4	2.4	36	22.0	1	0.6	4	2.4
<b>SECOND CIRCUIT</b>	<b>5,661</b>	<b>2,929</b>	<b>51.7</b>	<b>1,340</b>	<b>23.7</b>	<b>371</b>	<b>6.6</b>	<b>960</b>	<b>17.0</b>	<b>11</b>	<b>0.2</b>	<b>50</b>	<b>0.9</b>
Connecticut	<b>491</b>	233	47.5	117	23.8	67	13.6	67	13.6	2	0.4	5	1.0
New York													
Eastern	<b>1,484</b>	562	37.9	416	28.0	143	9.6	333	22.4	4	0.3	26	1.8
Northern	<b>511</b>	282	55.2	155	30.3	28	5.5	43	8.4	0	0.0	3	0.6
Southern	<b>2,147</b>	1,307	60.9	303	14.1	103	4.8	423	19.7	1	0.0	10	0.5
Western	<b>761</b>	417	54.8	254	33.4	8	1.1	74	9.7	3	0.4	5	0.7
Vermont	<b>267</b>	128	47.9	95	35.6	22	8.2	20	7.5	1	0.4	1	0.4
<b>THIRD CIRCUIT</b>	<b>3,933</b>	<b>2,066</b>	<b>52.5</b>	<b>1,127</b>	<b>28.7</b>	<b>161</b>	<b>4.1</b>	<b>526</b>	<b>13.4</b>	<b>7</b>	<b>0.2</b>	<b>46</b>	<b>1.2</b>
Delaware	<b>193</b>	123	63.7	18	9.3	13	6.7	39	20.2	0	0.0	0	0.0
New Jersey	<b>1,160</b>	602	51.9	368	31.7	47	4.1	131	11.3	1	0.1	11	0.9
Pennsylvania													
Eastern	<b>1,161</b>	485	41.8	400	34.5	48	4.1	212	18.3	3	0.3	13	1.1
Middle	<b>720</b>	341	47.4	271	37.6	22	3.1	71	9.9	3	0.4	12	1.7
Western	<b>543</b>	381	70.2	63	11.6	30	5.5	60	11.0	0	0.0	9	1.7
Virgin Islands	<b>156</b>	134	85.9	7	4.5	1	0.6	13	8.3	0	0.0	1	0.6
<b>FOURTH CIRCUIT</b>	<b>7,622</b>	<b>5,190</b>	<b>68.1</b>	<b>1,409</b>	<b>18.5</b>	<b>190</b>	<b>2.5</b>	<b>714</b>	<b>9.4</b>	<b>22</b>	<b>0.3</b>	<b>97</b>	<b>1.3</b>
Maryland	<b>848</b>	435	51.3	250	29.5	45	5.3	104	12.3	3	0.4	11	1.3
North Carolina													
Eastern	<b>815</b>	451	55.3	286	35.1	19	2.3	52	6.4	2	0.2	5	0.6
Middle	<b>560</b>	418	74.6	72	12.9	11	2.0	54	9.6	1	0.2	4	0.7
Western	<b>806</b>	506	62.8	213	26.4	17	2.1	63	7.8	0	0.0	7	0.9
South Carolina	<b>1,261</b>	893	70.8	210	16.7	37	2.9	109	8.6	4	0.3	8	0.6
Virginia													
Eastern	<b>1,768</b>	1,361	77.0	112	6.3	28	1.6	218	12.3	6	0.3	43	2.4
Western	<b>760</b>	481	63.3	188	24.7	12	1.6	65	8.6	3	0.4	11	1.4
West Virginia													
Northern	<b>417</b>	340	81.5	37	8.9	11	2.6	26	6.2	0	0.0	3	0.7
Southern	<b>387</b>	305	78.8	41	10.6	10	2.6	23	5.9	3	0.8	5	1.3

CIRCUIT District	TOTAL	GOVERNMENT											
		SENTENCED WITHIN GUIDELINE RANGE		SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%		%		%		%		%		%	
<b>FIFTH CIRCUIT</b>	<b>19,060</b>	<b>13,985</b>	<b>73.4</b>	<b>3,210</b>	<b>16.8</b>	<b>447</b>	<b>2.3</b>	<b>1,075</b>	<b>5.6</b>	<b>48</b>	<b>0.3</b>	<b>295</b>	<b>1.5</b>
Louisiana													
Eastern	<b>462</b>	353	76.4	59	12.8	9	1.9	25	5.4	6	1.3	10	2.2
Middle	<b>227</b>	150	66.1	50	22.0	2	0.9	11	4.8	2	0.9	12	5.3
Western	<b>530</b>	384	72.5	45	8.5	10	1.9	52	9.8	1	0.2	38	7.2
Mississippi													
Northern	<b>234</b>	143	61.1	69	29.5	2	0.9	7	3.0	3	1.3	10	4.3
Southern	<b>389</b>	318	81.7	38	9.8	8	2.1	17	4.4	0	0.0	8	2.1
Texas													
Eastern	<b>989</b>	803	81.2	104	10.5	23	2.3	40	4.0	2	0.2	17	1.7
Northern	<b>1,252</b>	939	75.0	148	11.8	18	1.4	88	7.0	3	0.2	56	4.5
Southern	<b>8,136</b>	5,418	66.6	1,909	23.5	257	3.2	469	5.8	22	0.3	61	0.7
Western	<b>6,841</b>	5,477	80.1	788	11.5	118	1.7	366	5.4	9	0.1	83	1.2
<b>SIXTH CIRCUIT</b>	<b>6,496</b>	<b>3,793</b>	<b>58.4</b>	<b>1,702</b>	<b>26.2</b>	<b>196</b>	<b>3.0</b>	<b>713</b>	<b>11.0</b>	<b>10</b>	<b>0.2</b>	<b>82</b>	<b>1.3</b>
Kentucky													
Eastern	<b>654</b>	314	48.0	270	41.3	8	1.2	44	6.7	0	0.0	18	2.8
Western	<b>453</b>	326	72.0	89	19.6	9	2.0	29	6.4	0	0.0	0	0.0
Michigan													
Eastern	<b>926</b>	491	53.0	275	29.7	36	3.9	112	12.1	1	0.1	11	1.2
Western	<b>526</b>	347	66.0	88	16.7	19	3.6	58	11.0	3	0.6	11	2.1
Ohio													
Northern	<b>1,299</b>	773	59.5	304	23.4	53	4.1	159	12.2	1	0.1	9	0.7
Southern	<b>772</b>	386	50.0	236	30.6	32	4.1	106	13.7	1	0.1	11	1.4
Tennessee													
Eastern	<b>753</b>	503	66.8	178	23.6	5	0.7	58	7.7	0	0.0	9	1.2
Middle	<b>378</b>	218	57.7	85	22.5	16	4.2	54	14.3	1	0.3	4	1.1
Western	<b>735</b>	435	59.2	177	24.1	18	2.4	93	12.7	3	0.4	9	1.2
<b>SEVENTH CIRCUIT</b>	<b>3,754</b>	<b>2,447</b>	<b>65.2</b>	<b>694</b>	<b>18.5</b>	<b>128</b>	<b>3.4</b>	<b>434</b>	<b>11.6</b>	<b>11</b>	<b>0.3</b>	<b>40</b>	<b>1.1</b>
Illinois													
Central	<b>437</b>	263	60.2	89	20.4	14	3.2	67	15.3	1	0.2	3	0.7
Northern	<b>1,320</b>	766	58.0	303	23.0	65	4.9	175	13.3	2	0.2	9	0.7
Southern	<b>397</b>	328	82.6	24	6.0	10	2.5	28	7.1	3	0.8	4	1.0
Indiana													
Northern	<b>517</b>	369	71.4	114	22.1	11	2.1	18	3.5	0	0.0	5	1.0
Southern	<b>366</b>	240	65.6	79	21.6	7	1.9	30	8.2	3	0.8	7	1.9
Wisconsin													
Eastern	<b>469</b>	261	55.7	77	16.4	17	3.6	102	21.7	2	0.4	10	2.1
Western	<b>248</b>	220	88.7	8	3.2	4	1.6	14	5.6	0	0.0	2	0.8
<b>EIGHTH CIRCUIT</b>	<b>6,255</b>	<b>4,066</b>	<b>65.0</b>	<b>1,153</b>	<b>18.4</b>	<b>210</b>	<b>3.4</b>	<b>714</b>	<b>11.4</b>	<b>19</b>	<b>0.3</b>	<b>93</b>	<b>1.5</b>
Arkansas													
Eastern	<b>353</b>	238	67.4	52	14.7	10	2.8	47	13.3	3	0.8	3	0.8
Western	<b>249</b>	171	68.7	60	24.1	4	1.6	13	5.2	0	0.0	1	0.4
Iowa													
Northern	<b>451</b>	321	71.2	63	14.0	6	1.3	38	8.4	4	0.9	19	4.2
Southern	<b>449</b>	210	46.8	107	23.8	14	3.1	109	24.3	0	0.0	9	2.0
Minnesota	<b>699</b>	372	53.2	140	20.0	42	6.0	142	20.3	0	0.0	3	0.4
Missouri													
Eastern	<b>1,199</b>	816	68.1	220	18.3	42	3.5	108	9.0	1	0.1	12	1.0
Western	<b>1,033</b>	679	65.7	202	19.6	17	1.6	117	11.3	0	0.0	18	1.7
Nebraska	<b>995</b>	658	66.1	206	20.7	51	5.1	72	7.2	0	0.0	8	0.8
North Dakota	<b>293</b>	201	68.6	68	23.2	8	2.7	14	4.8	1	0.3	1	0.3
South Dakota	<b>534</b>	400	74.9	35	6.6	16	3.0	54	10.1	10	1.9	19	3.6

CIRCUIT	TOTAL	GOVERNMENT											
		SENTENCED WITHIN GUIDELINE RANGE		SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
District			%		%		%		%		%		%
<b>NINTH CIRCUIT</b>	<b>15,123</b>	<b>7,319</b>	<b>48.4</b>	<b>5,747</b>	<b>38.0</b>	<b>525</b>	<b>3.5</b>	<b>1,281</b>	<b>8.5</b>	<b>80</b>	<b>0.5</b>	<b>171</b>	<b>1.1</b>
Alaska	232	137	59.1	44	19.0	3	1.3	43	18.5	0	0.0	5	2.2
Arizona	4,823	1,415	29.3	2,993	62.1	128	2.7	180	3.7	55	1.1	52	1.1
California													
Central	1,245	939	75.4	113	9.1	51	4.1	136	10.9	1	0.1	5	0.4
Eastern	1,139	624	54.8	392	34.4	32	2.8	79	6.9	3	0.3	9	0.8
Northern	813	499	61.4	168	20.7	34	4.2	97	11.9	1	0.1	14	1.7
Southern	2,765	1,447	52.3	994	35.9	139	5.0	170	6.1	5	0.2	10	0.4
Guam	132	69	52.3	48	36.4	5	3.8	10	7.6	0	0.0	0	0.0
Hawaii	594	298	50.2	184	31.0	23	3.9	79	13.3	0	0.0	10	1.7
Idaho	299	119	39.8	138	46.2	11	3.7	26	8.7	2	0.7	3	1.0
Montana	482	375	77.8	52	10.8	11	2.3	23	4.8	4	0.8	17	3.5
Nevada	528	381	72.2	69	13.1	10	1.9	55	10.4	1	0.2	12	2.3
Northern Mariana Islands	31	23	74.2	7	22.6	0	0.0	0	0.0	0	0.0	1	3.2
Oregon	653	357	54.7	139	21.3	32	4.9	116	17.8	2	0.3	7	1.1
Washington													
Eastern	472	283	60.0	93	19.7	12	2.5	70	14.8	3	0.6	11	2.3
Western	915	353	38.6	313	34.2	34	3.7	197	21.5	3	0.3	15	1.6
<b>TENTH CIRCUIT</b>	<b>6,964</b>	<b>4,561</b>	<b>65.5</b>	<b>1,625</b>	<b>23.3</b>	<b>214</b>	<b>3.1</b>	<b>491</b>	<b>7.1</b>	<b>7</b>	<b>0.1</b>	<b>66</b>	<b>0.9</b>
Colorado	822	450	54.7	237	28.8	48	5.8	77	9.4	2	0.2	8	1.0
Kansas	802	526	65.6	158	19.7	17	2.1	81	10.1	2	0.2	18	2.2
New Mexico	3,276	2,060	62.9	983	30.0	75	2.3	144	4.4	1	0.0	13	0.4
Oklahoma													
Eastern	111	97	87.4	11	9.9	2	1.8	1	0.9	0	0.0	0	0.0
Northern	253	208	82.2	29	11.5	1	0.4	10	4.0	1	0.4	4	1.6
Western	299	216	72.2	24	8.0	8	2.7	38	12.7	0	0.0	13	4.3
Utah	1,096	796	72.6	116	10.6	55	5.0	121	11.0	1	0.1	7	0.6
Wyoming	305	208	68.2	67	22.0	8	2.6	19	6.2	0	0.0	3	1.0
<b>ELEVENTH CIRCUIT</b>	<b>8,098</b>	<b>5,603</b>	<b>69.2</b>	<b>1,517</b>	<b>18.7</b>	<b>207</b>	<b>2.6</b>	<b>620</b>	<b>7.7</b>	<b>34</b>	<b>0.4</b>	<b>117</b>	<b>1.4</b>
Alabama													
Middle	273	166	60.8	94	34.4	2	0.7	7	2.6	3	1.1	1	0.4
Northern	562	333	59.3	156	27.8	9	1.6	48	8.5	2	0.4	14	2.5
Southern	403	258	64.0	98	24.3	10	2.5	30	7.4	0	0.0	7	1.7
Florida													
Middle	2,119	1,384	65.3	496	23.4	70	3.3	142	6.7	4	0.2	23	1.1
Northern	427	299	70.0	94	22.0	4	0.9	19	4.4	3	0.7	8	1.9
Southern	2,586	1,983	76.7	289	11.2	57	2.2	230	8.9	9	0.3	18	0.7
Georgia													
Middle	466	332	71.2	93	20.0	1	0.2	29	6.2	1	0.2	10	2.1
Northern	889	585	65.8	154	17.3	38	4.3	96	10.8	5	0.6	11	1.2
Southern	373	263	70.5	43	11.5	16	4.3	19	5.1	7	1.9	25	6.7

<sup>1</sup>Of the 89,221 cases, 209 cases with no analogous guidelines were excluded from the table. Of the remaining 89,012 cases, 3,653 were excluded due to missing departure or variance information.

Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted May 1, 2006; table prepared May 24, 2006). Summary numbers may not add up to their component parts due to rounding

**SUBSTANTIAL ASSISTANCE CASES: DEGREE OF DEPARTURE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR SUBSTANTIAL ASSISTANCE	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>11,520</b>	<b>36.0</b>	<b>29.0</b>	<b>49.4</b>
<b>Murder</b>	10	126.0	180.0	69.3
<b>Manslaughter</b>	0	--	--	--
<b>Kidnapping/Hostage Taking</b>	5	121.0	127.0	48.5
<b>Sexual Abuse</b>	6	34.5	18.5	35.4
<b>Assault</b>	13	42.0	18.0	31.4
<b>Robbery</b>	193	60.0	31.0	35.1
<b>Arson</b>	13	38.0	24.0	48.1
<b>Drugs - Trafficking</b>	7,407	50.0	39.0	45.5
<b>Drugs - Communication Facility</b>	79	7.0	16.0	70.7
<b>Drugs - Simple Possession</b>	12	25.3	10.0	41.2
<b>Firearms</b>	1,007	36.0	24.0	46.7
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	15	26.0	18.0	43.5
<b>Larceny</b>	142	6.0	10.0	63.8
<b>Fraud</b>	1,145	1.0	12.0	93.3
<b>Embezzlement</b>	18	1.5	11.0	92.6
<b>Forgery/Counterfeiting</b>	104	1.0	9.0	92.5
<b>Bribery</b>	73	4.0	15.0	80.0
<b>Tax</b>	102	0.0	10.0	100.0
<b>Money Laundering</b>	259	12.0	23.0	63.5
<b>Racketeering/Extortion</b>	172	30.0	30.0	52.9
<b>Gambling/Lottery</b>	20	0.0	8.0	100.0
<b>Civil Rights</b>	10	14.0	12.0	45.4
<b>Immigration</b>	376	9.9	9.0	47.4
<b>Pornography/Prostitution</b>	60	46.5	27.0	35.3
<b>Prison Offenses</b>	14	7.5	6.5	52.0
<b>Administration of Justice Offenses</b>	154	0.0	12.0	100.0
<b>Environmental/Wildlife</b>	17	0.0	12.0	100.0
<b>National Defense</b>	7	6.0	18.0	87.0
<b>Antitrust</b>	12	5.0	10.0	66.7
<b>Food &amp; Drug</b>	6	0.0	12.0	99.9
<b>Other Miscellaneous Offenses</b>	68	2.0	15.5	88.6

<sup>1</sup>Of the 89,221 cases, 12,098 received a substantial assistance departure. Of these, 11,594 had complete guideline application information. An additional 47 cases were excluded due to several logical criteria. Of the remaining 11,547 cases, 27 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (27).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**GOVERNMENT SPONSORED DOWNWARD DEPARTURE CASES: DEGREE OF  
DEPARTURE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR GOVERNMENT SPONSORED DOWNWARD DEPARTURE <sup>3</sup>	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>7,499</b>	<b>23.0</b>	<b>9.0</b>	<b>27.8</b>
<b>Murder</b>	4	97.5	40.0	41.0
<b>Manslaughter</b>	0	--	--	--
<b>Kidnapping/Hostage Taking</b>	3	48.0	15.0	23.8
<b>Sexual Abuse</b>	31	60.0	18.5	34.4
<b>Assault</b>	45	18.0	12.0	40.5
<b>Robbery</b>	35	77.0	26.0	28.3
<b>Arson</b>	2	--	--	--
<b>Drugs - Trafficking</b>	2,008	24.0	11.0	33.3
<b>Drugs - Communication Facility</b>	12	13.5	24.9	69.2
<b>Drugs - Simple Possession</b>	2	--	--	--
<b>Firearms</b>	269	30.0	12.0	27.5
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	1	--	--	--
<b>Larceny</b>	39	0.0	10.0	99.9
<b>Fraud</b>	146	5.0	10.0	66.5
<b>Embezzlement</b>	11	1.0	8.0	87.6
<b>Forgery/Counterfeiting</b>	28	4.7	10.0	62.5
<b>Bribery</b>	9	5.0	10.0	73.3
<b>Tax</b>	24	0.0	9.0	99.9
<b>Money Laundering</b>	35	12.0	6.5	50.0
<b>Racketeering/Extortion</b>	41	36.0	9.0	20.0
<b>Gambling/Lottery</b>	5	0.0	10.0	100.0
<b>Civil Rights</b>	0	--	--	--
<b>Immigration</b>	4,599	22.0	7.0	25.0
<b>Pornography/Prostitution</b>	45	52.0	19.0	21.7
<b>Prison Offenses</b>	9	12.0	6.0	41.7
<b>Administration of Justice Offenses</b>	49	10.0	14.0	65.0
<b>Environmental/Wildlife</b>	5	5.0	8.0	66.7
<b>National Defense</b>	4	24.0	22.0	56.6
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	4	14.0	13.0	49.9
<b>Other Miscellaneous Offenses</b>	33	0.0	12.0	100.0

<sup>1</sup>Of the 89,221 cases, 7,905 received a government sponsored downward departure. Of these, 7,578 had complete guideline application information. An additional 64 cases were excluded due to several logical criteria. Of the remaining 7,514 cases, 15 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (15).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHER DOWNWARD DEPARTURE CASES: DEGREE OF DEPARTURE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR OTHER DOWNWARD DEPARTURE <sup>3</sup>	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>2,563</b>	<b>21.0</b>	<b>12.0</b>	<b>34.8</b>
<b>Murder</b>	3	70.0	27.0	27.8
<b>Manslaughter</b>	4	24.0	11.0	26.8
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	10	18.0	6.0	15.5
<b>Assault</b>	40	10.5	12.0	63.3
<b>Robbery</b>	73	48.0	17.0	22.4
<b>Arson</b>	1	--	--	--
<b>Drugs - Trafficking</b>	850	60.0	18.0	27.5
<b>Drugs - Communication Facility</b>	12	15.0	14.0	43.8
<b>Drugs - Simple Possession</b>	4	36.0	23.0	48.0
<b>Firearms</b>	362	24.0	12.0	34.8
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	1	--	--	--
<b>Larceny</b>	56	0.0	9.0	100.0
<b>Fraud</b>	270	1.0	10.0	95.5
<b>Embezzlement</b>	20	2.5	9.5	84.2
<b>Forgery/Counterfeiting</b>	35	0.0	10.0	100.0
<b>Bribery</b>	6	0.0	7.0	100.0
<b>Tax</b>	48	0.0	10.0	100.0
<b>Money Laundering</b>	39	18.0	10.0	45.8
<b>Racketeering/Extortion</b>	22	24.0	12.5	45.8
<b>Gambling/Lottery</b>	2	--	--	--
<b>Civil Rights</b>	3	0.0	12.0	100.0
<b>Immigration</b>	519	24.0	8.0	26.7
<b>Pornography/Prostitution</b>	66	18.0	21.0	41.4
<b>Prison Offenses</b>	11	18.0	5.0	25.0
<b>Administration of Justice Offenses</b>	61	0.0	10.0	99.6
<b>Environmental/Wildlife</b>	5	0.0	6.0	100.0
<b>National Defense</b>	2	--	--	--
<b>Antitrust</b>	1	--	--	--
<b>Food &amp; Drug</b>	0	--	--	--
<b>Other Miscellaneous Offenses</b>	36	1.0	10.0	93.4

<sup>1</sup>Of the 89,221 cases, 2,745 received an other downward departure. Of these, 2,575 had complete guideline application information. An additional five cases were excluded due to several logical criteria. Of the remaining 2,570 cases, seven were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (7).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.



**OTHERWISE BELOW GUIDELINE RANGE CASES: DEGREE OF VARIANCE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF DECREASE FOR OTHERWISE BELOW GUIDELINE RANGE <sup>3</sup>	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>7,228</b>	<b>24.0</b>	<b>12.0</b>	<b>34.8</b>
<b>Murder</b>	10	108.5	25.0	20.5
<b>Manslaughter</b>	4	20.0	15.5	42.3
<b>Kidnapping/Hostage Taking</b>	5	324.0	84.0	20.6
<b>Sexual Abuse</b>	37	34.0	21.0	33.3
<b>Assault</b>	65	12.0	9.0	44.4
<b>Robbery</b>	157	51.0	14.0	20.5
<b>Arson</b>	2	--	--	--
<b>Drugs - Trafficking</b>	2,572	60.0	19.0	26.9
<b>Drugs - Communication Facility</b>	62	15.0	10.5	36.3
<b>Drugs - Simple Possession</b>	19	3.0	7.0	66.2
<b>Firearms</b>	1,009	30.0	12.0	28.6
<b>Burglary/B&amp;E</b>	7	6.0	6.0	52.4
<b>Auto Theft</b>	6	30.0	7.0	28.2
<b>Larceny</b>	173	0.0	6.0	100.0
<b>Fraud</b>	870	5.0	9.0	70.7
<b>Embezzlement</b>	79	0.0	8.0	99.6
<b>Forgery/Counterfeiting</b>	123	1.0	8.0	88.9
<b>Bribery</b>	28	0.0	9.5	100.0
<b>Tax</b>	160	1.0	10.0	93.9
<b>Money Laundering</b>	155	12.0	12.0	51.4
<b>Racketeering/Extortion</b>	65	42.0	15.0	33.3
<b>Gambling/Lottery</b>	11	0.0	6.0	100.0
<b>Civil Rights</b>	11	22.0	8.0	48.9
<b>Immigration</b>	1,092	21.0	9.0	33.2
<b>Pornography/Prostitution</b>	218	30.0	19.0	36.8
<b>Prison Offenses</b>	29	12.0	7.0	41.2
<b>Administration of Justice Offenses</b>	123	6.0	10.0	66.1
<b>Environmental/Wildlife</b>	19	0.0	6.0	100.0
<b>National Defense</b>	8	25.5	20.5	43.0
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	5	0.0	12.0	100.0
<b>Other Miscellaneous Offenses</b>	104	0.0	10.0	100.0

<sup>1</sup>Of the 89,221 cases, 7,846 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 7,258 had complete guideline application information. An additional 13 cases were excluded due to several logical criteria. Of the remaining 7,245 cases, 17 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (17).

<sup>2</sup>Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**UPWARD DEPARTURE CASES: DEGREE OF DEPARTURE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**

**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

PRIMARY OFFENSE	n	Median Sentence in Months <sup>2</sup>	DEGREE OF INCREASE FOR UPWARD DEPARTURE <sup>3</sup>	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>240</b>	<b>60.0</b>	<b>14.0</b>	<b>33.3</b>
<b>Murder</b>	4	234.0	106.0	65.5
<b>Manslaughter</b>	6	96.0	18.0	23.6
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	5	220.0	32.0	37.8
<b>Assault</b>	11	70.0	13.0	69.0
<b>Robbery</b>	8	175.5	34.0	30.9
<b>Arson</b>	0	--	--	--
<b>Drugs - Trafficking</b>	20	36.0	7.5	23.6
<b>Drugs - Communication Facility</b>	1	--	--	--
<b>Drugs - Simple Possession</b>	3	18.1	12.1	200.0
<b>Firearms</b>	45	90.0	23.0	25.0
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	0	--	--	--
<b>Larceny</b>	2	--	--	--
<b>Fraud</b>	31	48.0	14.0	50.0
<b>Embezzlement</b>	0	--	--	--
<b>Forgery/Counterfeiting</b>	5	48.0	14.0	75.0
<b>Bribery</b>	0	--	--	--
<b>Tax</b>	0	--	--	--
<b>Money Laundering</b>	4	120.0	57.0	90.5
<b>Racketeering/Extortion</b>	3	54.0	13.0	31.7
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	0	--	--	--
<b>Immigration</b>	61	21.0	5.0	25.0
<b>Pornography/Prostitution</b>	15	156.0	49.0	58.7
<b>Prison Offenses</b>	2	--	--	--
<b>Administration of Justice Offenses</b>	9	36.0	6.0	66.7
<b>Environmental/Wildlife</b>	0	--	--	--
<b>National Defense</b>	0	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	2	--	--	--
<b>Other Miscellaneous Offenses</b>	2	--	--	--

<sup>1</sup>Of the 89,221 cases, 255 received an upward departure. Of these, 243 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 242 cases, two were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (2).

<sup>2</sup>Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHERWISE ABOVE GUIDELINE RANGE CASES: DEGREE OF VARIANCE  
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on May 1, 2006**

PRIMARY OFFENSE	n	DEGREE OF INCREASE FOR OTHERWISE ABOVE GUIDELINE RANGE <sup>3</sup>		
		Median Sentence in Months <sup>2</sup>	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>983</b>	<b>60.0</b>	<b>14.0</b>	<b>37.9</b>
<b>Murder</b>	7	240.0	40.0	21.3
<b>Manslaughter</b>	6	37.0	7.0	23.2
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	20	184.0	38.0	41.3
<b>Assault</b>	31	60.0	27.0	44.8
<b>Robbery</b>	23	180.0	35.0	27.7
<b>Arson</b>	4	78.0	12.5	34.2
<b>Drugs - Trafficking</b>	130	84.0	18.5	33.3
<b>Drugs - Communication Facility</b>	6	49.5	6.0	21.0
<b>Drugs - Simple Possession</b>	15	24.0	12.0	100.0
<b>Firearms</b>	187	80.0	17.0	33.3
<b>Burglary/B&amp;E</b>	2	--	--	--
<b>Auto Theft</b>	5	36.0	18.0	90.5
<b>Larceny</b>	40	30.0	11.5	69.0
<b>Fraud</b>	164	45.5	9.5	34.8
<b>Embezzlement</b>	3	36.0	12.0	46.3
<b>Forgery/Counterfeiting</b>	19	57.0	14.0	73.2
<b>Bribery</b>	0	--	--	--
<b>Tax</b>	7	36.0	9.0	33.3
<b>Money Laundering</b>	15	120.0	21.0	37.9
<b>Racketeering/Extortion</b>	20	81.0	17.0	27.4
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	1	--	--	--
<b>Immigration</b>	181	24.0	7.0	40.0
<b>Pornography/Prostitution</b>	51	120.0	33.0	40.8
<b>Prison Offenses</b>	8	42.5	7.5	28.8
<b>Administration of Justice Offenses</b>	24	24.0	9.5	50.0
<b>Environmental/Wildlife</b>	1	--	--	--
<b>National Defense</b>	0	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	0	--	--	--
<b>Other Miscellaneous Offenses</b>	13	36.0	12.0	50.0

<sup>1</sup>Of the 89,221 cases, 1,113 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 1,020 had complete guideline application information. An additional 36 cases were excluded due to several logical criteria. Of the remaining 984 cases, one were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (1).

<sup>2</sup>Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.